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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,450	06/03/2005	Eric Wilhelmus Moors	US 020638	1687
24737 7590 03/09/2010 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
			EXAMINER	
			DAZENSKI, MARC A	
		ART UNIT	PAPER NUMBER	
		2621		
		MAIL DATE	DELIVERY MODE	
		03/09/2010	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

10/537,450

Applicant(s)

MOORS ET AL.

Examiner

MARC DAZENSKI

Art Unit

2621

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 24 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 5-12 and 16-25.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant argues on page 11 of the remarks that "they are NOT the actual end and start packets identifying the ending of one program and the starting of another program" and therefore the cited sections of Gorbатов do not read on the claim. The examiner notes that a careful reading of the claim shows that nowhere does it say that the cited ATVEF triggers must be the actual end and start data packets; the claim merely specifies "a means for detecting" the start and end data packets. Since these ATVEF triggers do so, the examiner maintains they read on the claim. Regarding Applicant's argument that Gorbатов fails to show "the end data packet of a preceding program and the start data packet for a following program are combined in a common data packet," the examiner points to the reasoning in the previous Office Action as well as to column 4, lines 8-12 which says a trigger may be included in a single IP multicast packet. Finally, Applicant argues the combination teaches away from the claimed invention and therefore the combination is improper, further indicating that Gorbатов adds packet overhead. The examiner notes that nowhere in the claim does it mention any packet overhead, as well as column 8, lines 46-50 says there may be zero triggers (which would naturally not increase packet overhead). Even if triggers were included in the stream, column 4, lines 4-7 states they may be embedded in the data stream, and still further column 8, lines 51-57 state the event notifications may be transmitted over the Internet (which would also not affect the packet overhead in the data stream because they'd use a separate protocol). Thus the examiner maintains the original rejections to the claims.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621

/MARC DAZENSKI/
Examiner, Art Unit 2621